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EXAMINER

SIMONE, CATHERINE A

ART UNIT PAPER NUMBER

1772

DATE MAILED: 05/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/695,070

Applicant(s)

MATARASSO, HASDI

Examiner

Catherine Simone

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10, 13-20 and 22-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 13-20 and 22-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Withdrawn Rejections

1. The 35 U.S.C. 112 rejection of claims 8, 20 and 21 of record in the Office Action mailed 6/29/04, Page 2, Paragraph #2 has been withdrawn due to the Applicant's amendment filed 12/23/04.
2. The 35 U.S.C. 102 rejection of claims 1-4, 9-17 and 19-24 as anticipated by Larson et al. of record in the Office Action mailed 6/29/04, Pages 2-5, Paragraph #4 has been withdrawn due to the Applicant's amendment filed 12/23/04.
3. The 35 U.S.C. 103 rejection of claims 5-8 over Larson et al. of record in the Office Action mailed 6/29/04, Pages 5-6, Paragraph #6 has been withdrawn due to the Applicant's amendment filed 12/23/04.
4. The 35 U.S.C. 103 rejection of claim 18 over Larson et al. in view of Kerr of record in the Office Action mailed 6/29/04, Pages 6-7, Paragraph #7 has been withdrawn due to the Applicant's amendment filed 12/23/04.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
6. Claims 22-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 22 recites the limitation "the diagonally oriented sleeves" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1, 4-9 and 16-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith (3,575,757).

Smith discloses an inflatable cellular cushioning material comprising a sheet formed from at least two layers of plastic welded to each other on either longitudinal side (see col. 4, lines 3-17), the at least two layers are pre-welded to each other in a diagonal manner across their widths (Fig. 5, #70; also see col. 3, lines 19-21) forming a plurality of diagonally oriented inflatable sleeves wherein the diagonally oriented inflatable sleeves are configured so as to allow the formation of a row of individual cells by applying a sealing line in a direction intersecting the sleeves, the sealing line extending substantially the entire width of the sheet (Fig. 5, #70).

Regarding claim 4, note at least two individual cushioning cells when inflated (Fig. 5, #68).

Regarding claims 5-7, note at least two cushioning cells are of a rhombus shape, diamond shape and of parallelogram shape (Fig. 5, #68). Regarding claim 8, note the at least two cushioning cells have a curved side (Fig. 4, #34). Regarding claim 9, note the material further comprises an un-inflated area (Fig. 4, #60). Regarding claim 16, note the sealing line extends perpendicularly

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to the longitudinal axis of the sheet, the entire width of the sheet (Fig. 5, #70). Regarding claim 17, note the sealing line extends at an angle relative to the longitudinal axis of the sheet, the entire width of the sheet (Fig. 5, #70). Regarding claim 18, the diagonally oriented sleeves have straight edges (Fig. 5, #68). Regarding claim 19, note the diagonally oriented sleeves have edges of a curvature (Fig. 4, #34).

9. Claims 1, 4-9 and 17-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Caldwell (US 2,633,442).

Caldwell discloses an inflatable cellular cushioning material comprising a sheet formed from at least two layers of plastic welded to each other on either longitudinal side (see col. 1, lines 43-48), the at least two layers are pre-welded to each other in a diagonal manner across their widths (Fig. 4, #9; also see col. 3, lines 53-57) forming a plurality of diagonally oriented inflatable sleeves wherein the diagonally oriented inflatable sleeves are configured so as to allow the formation of a row of individual cells by applying a sealing line in a direction intersecting the sleeves, the sealing line extending substantially the entire width of the sheet (Fig. 4, #10).

Regarding claim 4, note at least two individual cushioning cells when inflated (Fig. 4, #8).

Regarding claims 5-7, note at least two cushioning cells are of a rhombus shape, diamond shape and of parallelogram shape (Fig. 4, #8). Regarding claim 8, note the at least two cushioning cells have a curved side (Fig. 3, #6). Regarding claim 9, the material further comprises an un-inflated area (Fig. 3, #5). Regarding claim 17, note the sealing line extends at an angle relative to the longitudinal axis of the sheet, the entire width of the sheet (Fig. 4, #10). Regarding claim 18, the diagonally oriented sleeves have straight edges (Fig. 4, #9). Regarding claim 19, note the diagonally oriented sleeves have edges of a curvature (Fig. 3, #6).

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10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11. Claims 1-4, 8, 9, 13, 17, 19, 20 and 22-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Simhaee (6,423,166).

Simhaee discloses an inflatable cellular cushioning material comprising a sheet formed from at least two layers of plastic welded to each other on either longitudinal side (Fig. 3, #10 and #16), the at least two layers are pre-welded to each other in a diagonal manner across their widths (see col. 2, lines 25-28 and 60-65) forming a plurality of diagonally oriented inflatable sleeves (Fig. 1, A1-A5 and B1-B5 and C1-C5 etc.) wherein the diagonally oriented inflatable sleeves are configured so as to allow the formation of a row of individual cells by applying a sealing line in a direction intersecting the sleeves (see col. 3, lines 62-67), the sealing line extending substantially the entire width of the sheet (see Fig 5 shown below). Regarding claim 2, note the sheet further comprises a longitudinally extending air entry passage (Fig. 1, #15). Regarding claim 3, note each of the diagonally oriented sleeves is substantially sealed on all sides (see col. 2, lines 61-65), except for a small opening at the side of the sleeve facing the air entry passage for allowing air from the air entry passage to enter the respective sleeves (see col. 3, lines 37-45). Regarding claim 4, note at least two individual cushioning cells when inflated (Fig. 1, A1-A5). Regarding claim 8, note the at least two cushioning cells have a curved side (Fig. 1, A1-A5 and Fig. 3, #12). Regarding claim 9, note the material further comprises an un-

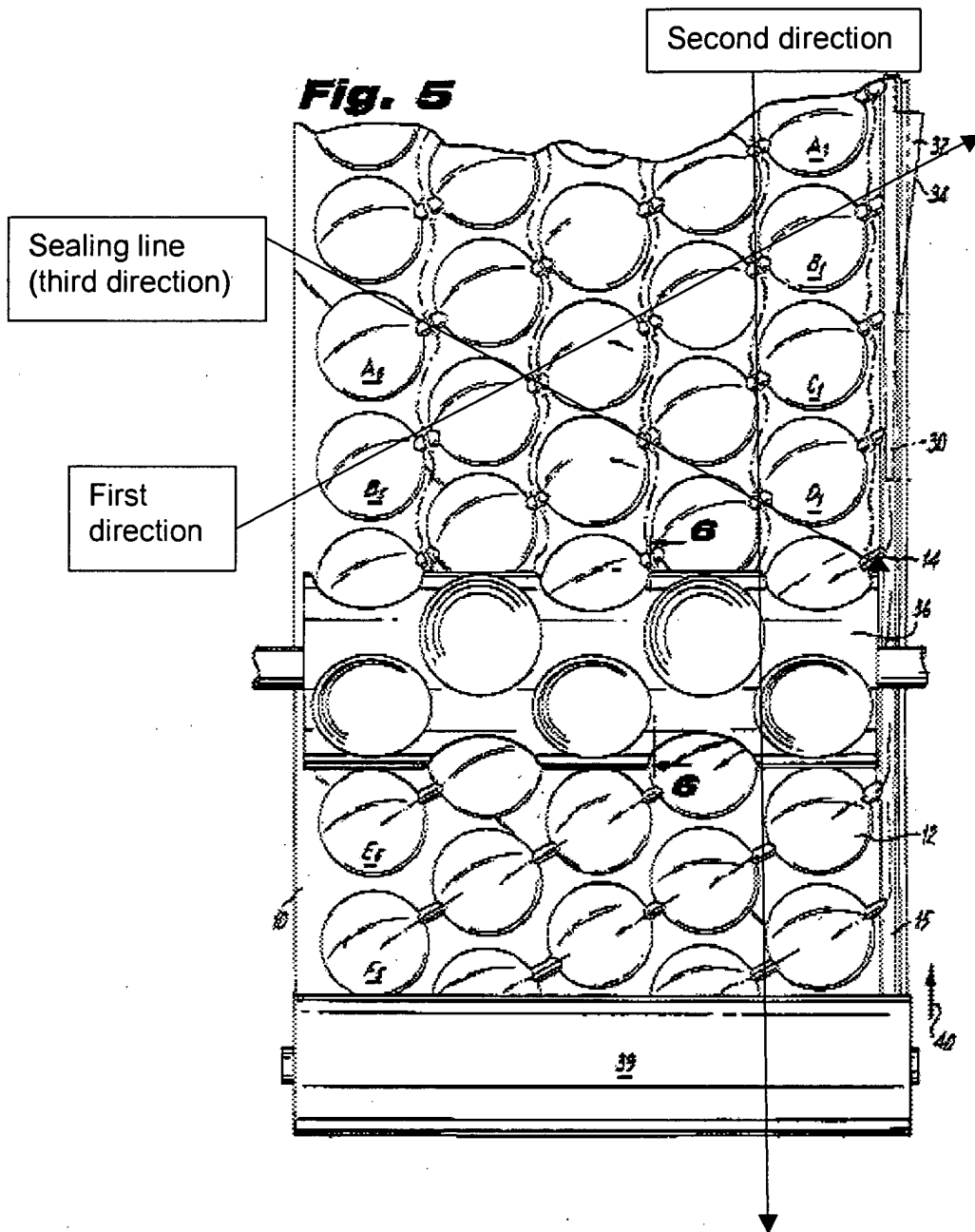
inflated area (see col. 2, lines 61-65). Regarding claim 13, the air entry passage is located at one side of the cellular cushioning material (Fig. 1, #15). Regarding claim 17, the sealing line extends at an angle relative to the longitudinal axis of the sheet, the entire width of the sheet (see Fig. 5 shown below). Regarding claim 19, the diagonally oriented sleeves have edges of a curvature (Fig. 1, A1-A5 and Fig. 3, #12).

Regarding claim 20, Simhaee discloses a plastic cellular cushioning material sheet comprising at least two layers of plastic pre-welded in a predetermined manner (see col. 2, lines 60-65) so as to form a plurality of inflatable diagonally oriented sleeves extending in a first direction (Fig. 5, A1-A5 and B1-B5 etc) and an air entry passage (Fig. 5, #15), wherein each of the inflatable diagonally oriented sleeves communicate with the air entry passage for allowing entry of air from the air entry passage into the sleeves, the air entry passage is elongated in a longitudinal direction of the sheet (Fig. 5, #15), wherein the diagonally oriented sleeves are configured so as to allow the formation of a row of multiple individual cells (Fig. 5, A1-A5) by applying a sealing line extending substantially the entire width of the sheet in a direction intersecting the sleeves and the air passage (see Fig. 5 shown below).

Regarding claim 22, Simhaee discloses a cellular cushioning material sheet comprising at least two layers of plastic welded in a predetermined manner (see col. 2, lines 60-65) so as to have a plurality of inflatable sleeves extending in a first direction (Fig. 5, A1-A5 and B1-B5 etc) and an air entry passage (Fig. 5, #15) running in a second direction, wherein each of the inflatable sleeves communicates with the air entry passage for allowing entry of air from the air entry passage into the sleeves; wherein the diagonally oriented sleeves are configured so as to allow the formation of a row of multiple individual cells (Fig. 5, A1-A5) by applying a sealing

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line extending in a third direction intersecting the first and second directions (see Fig. 5 shown below). Regarding claim 23, the sealing line extends substantially the entire width of the sheet, whereby a plurality of cellular cushioning cells (Fig. 5, A1-A5 and B1-B5 etc) extend substantially the entire width of the sheet (see Fig. 5 shown below). Regarding claim 24, the cellular cushioning cells are inflated (see col. 3, lines 25-26).



Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (3,575,757) or Caldwell (2,633,442) or Simhaee (6,423,166) in view of Larson (4,096,306).

Smith, Caldwell and Simhaee each disclose the presently claimed cellular cushioning material as shown above. However, each fails to disclose perforations along welding lines located where the plastic layers have been welded to one another. Larson teaches that it is old and well-known in the analogous art to have a cellular cushioning material provided with perforations along weld lines located where two plastic layers have been welded to one another for the purpose of enabling separation of the cellular cushioning material (see col. 8, lines 4-7). Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have modified the cellular cushioning material of Smith, Caldwell or Simhaee to have perforations along weld lines located where the plastic layers have been welded to one another as suggested by Larson in order to enable separation of the cellular cushioning material.

14. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simhaee (6,423,166) in view of Larson (4,096,306).

Simhaee teaches the presently claimed cellular cushioning material as shown above. However, Simhaee fails to disclose the air entry passage being located in the central region of the

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cellular cushioning material and being located in a region between the sides of the cellular cushioning material. Larson teaches that it is old and well-known in the analogous art to have an air entry passage located in the central region of the cellular cushioning material and located between the sides of the cellular cushioning material for the purpose of allowing air to enter and inflate the chambers (see col. 6, lines 16-23). Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have modified the air entry passage in Simhaee to be located in the central region of the cellular cushioning material and located in a region between the sides of the cellular cushioning material as suggested by Larson in order to allow air to enter and inflate the chambers.

Response to Arguments

15. Applicant's arguments with respect to claims 1-10, 13-20 and 22-24 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Levrini et al. patent is cited for further teachings of inflatable cellular cushioning materials similar to that instantly disclosed.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine Simone whose telephone number is (571)272-1501. The examiner can normally be reached on 9:30-6:00.

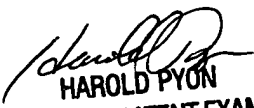
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Catherine A. Simone
Examiner
Art Unit 1772
April 25, 2005



HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

4/28/05